

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

TWELFTH LEGISLATURE.

PART FIRST.

AUSTIN:

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1871.

Mr. Hughes moved to amend Rule No. 48 by striking out the words "but this rule shall not be construed as repealing or conflicting with the provisions of Rule No. 41," and inserting the following words: "and this rule shall be in all cases rigidly construed by the Speaker."

On motion of Mr. Plumley, the amendment was laid on the table.

Mr. Butler moved to amend Rule 71 by striking out in line three the words "or changed," and in line four, after the word "present," the words "after such notice," and inserting after the word "present," in line four, the following: "but any rule may be changed by a majority of the members present, after one day's notice of the motion therefor."

On motion of Mr. Camp, the amendment was laid on the table.

Mr. Grothaus moved to amend Rule 77 by striking out the word "in" and inserting in lieu thereof the words "within the bar of."

Amendment lost.

Mr. Butler moved to amend Rule 77 by inserting after the word "smoking" the words "or chewing tobacco."

Mr. Johnson moved to lay the amendment on the table.

Lost.

The question recurring on the adoption of the amendment, it was lost.

On motion of Mr. Plumley the following rules were adopted for the government of the House of Representatives of the Twelfth Legislature, and two hundred copies of the same were ordered printed for the use of the House:

RULES OF ORDER OF THE HOUSE OF REPRESENTATIVES.

TOUCHING THE DUTY AND RIGHTS OF THE SPEAKER.

1. He shall take the chair every day at the hour to which the House shall have adjourned on the preceding day, and immediately call the members to order. If a quorum should be in attendance, he shall cause the journal of the preceding day to be read, which may then be corrected by the House.

2. He shall preserve order and decorum; may speak to points of order in preference to members, rising from his seat for that purpose; he shall decide questions of order, subject to an appeal to the House made by any two members, on which appeal no member shall speak more than once, unless by leave of the House.

3. He shall rise to put a question, but may state it while sitting.

4. Questions shall be distinctly put in this form, to-wit: "As

many of you as are of opinion that (as the question may be,) say aye;" and, after the affirmative voice is expressed, "As many as are of a contrary opinion, say no." If the Speaker doubts, or if a division be called for, the House shall divide;—those in the affirmative of the question shall rise from their seats, and remain standing until the Clerk has numbered them and the number announced by the Speaker. Those who vote in the negative are then requested to rise, and they are numbered and the number announced. The yeas and nays may be called for before the decision of the Speaker is announced.

5. The Speaker shall have the right to examine and correct the journal before it is read. He shall have a general direction of the hall. He shall have a right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.

6. In all cases of election by the House, the Speaker shall vote; in other cases he shall not be required to vote unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal, and in case of such equal division, the question shall be lost, except on a question of adjournment.

7. All committees, and the chairmen of the same, shall be appointed by the Speaker, unless otherwise specially directed by the House, in which case they shall be elected by the House; and if upon such vote the number required shall not be elected by a majority of the votes given, the House shall proceed to a second vote, in which a plurality shall prevail; and in case a greater number than are required to compose or complete a committee shall have an equal number of votes, the House shall take another vote.

A majority of a committee shall constitute a quorum for business; and no report shall be made to the House unless ordered by a majority of such quorum. The views of the minority may be submitted in writing through the chairman.

8. All acts, addresses, and joint resolutions shall be signed by the Speaker; and all writs, warrants and subpoenas, issued by order of the House, shall be under his hand and attested by the Clerk.

9. In case of any disturbance or disorderly conduct in the galleries, the Speaker (or Chairman of the whole House) shall have power to order the same to be cleared.

RULES OF DECORUM AND DEBATE.

10. When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat and respectfully address himself to "Mr. Speaker."

11. If any member, in speaking or otherwise, transgress the rules

of the House, the Speaker shall, or any member may, call to order ; in which case the member so called to order shall immediately sit down unless permitted to explain ; and the House shall, if appealed to, decide on the case, but without debate. If the decision be in favor of the member called to order, he shall be at liberty to proceed ; if the decision be against him, and the case require it, he shall be liable to censure of the House.

12. When two or more members happen to rise at once, the Speaker shall name the one who is first to speak, and his decision shall be final, and not open to debate or appeal.

13. No member shall speak more than twice, either in the House or in committee of the whole, on the same question, nor more than half an hour in the House or one hour in committee of the whole, without leave of the House, nor more than once until every member choosing to speak shall have spoken. But the mover of any proposition shall have the right to open and close the debate ; and in case the proposition comes from any committee, then the member making the report from the committee shall have the right to open and close the debate in like manner.

14. Whilst the yeas and nays are being called, or votes are being counted, no member shall visit the Clerk's table or leave his seat.

15. No member shall vote on any question in the event of which he is immediately interested, nor in any case where he was not within the bar of the House when the question was put. And when any member shall ask leave to vote, the Speaker shall propound to him the question : " Were you within the bar when the question was put ? "

16. Upon a division and count of the House upon any question, no member without the bar shall be counted.

17. Every member who shall be in the House when the question is put shall give his vote, unless the House, for reasons assigned, shall excuse him. No member shall be allowed to make any explanation of a vote he is about to give, or ask to be excused from voting, after the Clerk, under the order of the House, shall have commenced calling the yeas and nays.

ORDER OF BUSINESS FOR THE DAY.

18. As soon as the journal is adopted, the Speaker shall call for petitions and memorials. The petitions and memorials having been presented, received and read, shall be disposed of as follows :

1. By motion to reject.
2. To lay on the table.
3. To postpone to a day certain.

4. To commit.

5. To postpone indefinitely.

The order of commitment shall be :

1. A Standing Committee.

2. The Committee of the Whole House.

3. A Select Committee.

Petitions and memorials shall be referred to the appropriate Standing Committees.

Then reports—first, from the Standing, and then from Select Committees, shall be called for and disposed of.

Then bills and resolutions shall be in order :

1. Bills.

2. Resolutions.

After petitions, reports from committees, and bills and resolutions are gone through, the unfinished business of the House, if any there be, shall be disposed of—then, it shall be in order to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table and to the orders of the day, which being decided in the affirmative, the Speaker shall dispose of:

1. Simple resolutions.

2. Messages and Executive communications.

3. Messages from the Senate and Senate amendments.

4. Bills on their third reading.

5. Bills on their second reading.

6. Bills on their first reading.

After the business on the Speaker's table has been reached, no new business shall be introduced without leave of the House.

The orders of the day shall always have precedence when the hour for considering the same has arrived.

BILLS.

19. Bills may originate in either House, and be amended, altered or rejected by the other; but no bill shall have the force of a law until on three several days it be read in each House, and free discussion be allowed thereon, unless in case of great emergency four-fifths of the House, in which the bill shall be pending, may deem it expedient to dispense with this rule; and every bill having passed both Houses shall be signed by the Speaker and President of their respective Houses; provided, that the final vote, on all bills or joint resolutions appropriating money or lands for any purpose, shall be by the yeas and nays.

20. After a bill or resolution has been rejected by either branch of the Legislature, no bill or resolution, containing the same substance, shall be passed into a law during the same session.

21. A bill may be introduced without motion for leave to bring in a bill.

22. All bills before the House shall be taken up and acted upon in the order in which they are numbered, and it shall be the duty of the Chief Clerk to number every bill in its regular order, upon its first reading.

23. The first reading of a bill or joint resolution shall be for information; and if opposition be made to it, the question shall be "Shall this bill (or joint resolution) be rejected?" If no opposition be made, or if the question to reject be negatived, the bill or joint resolution shall be put on the calendar for its second reading.

24. No bill shall be committed or amended until it shall have been twice read, and all bills shall be referred to the appropriate committees upon the second reading.

25. All bills and joint resolutions which have passed their second reading, and are ordered to be engrossed, shall be presented to the House for their third reading, written in a fair, legible hand, without erasures, interlineations, or additions in the margin thereof.

26. At the second reading of a bill, it shall either be in order for commitment or amendment; and if committed, the priority or question shall be: first, whether to a standing committee; second, to the committee of the whole House; third, to a select committee, if not committed; or, if no amendments are made, or if the amendments offered are gone through with, then the question shall be on its engrossment; and bills ordered to be engrossed shall go on the calendar in their regular course. A bill lost at the second reading shall stand as being indefinitely postponed.

27. The final question upon the second reading of every bill or resolution originating in the House, and requiring three readings previous to its being passed, shall be, whether it shall be engrossed and read a third time.

28. When a bill shall have been committed on its third reading, and reported to the House with amendments, it shall take the course of a bill at its second reading, unless the amendments were made in committee of the whole; in which case the House shall immediately proceed to act on the bill; but when a bill has been committed once at its reading, it shall not be in order to recommit it again, unless for some special amendment proposed, and then only by consent of two-thirds present. Nor shall a bill be amended on its third reading, unless by consent of two-thirds of those present; provided, that this shall not apply to bills committed on third reading and reported to the House with amendments.

29. All bills of a general character, when reported favorably by a committee, shall, on the recommendation of such committee, be

printed, and a copy laid on the desk of each member, before the bill is acted on by the House. All other bills, resolutions, reports, memorials and petitions shall be printed on the order of the House.

30. When a bill shall pass, it shall be certified by the Clerk, noting the day of its passage at the foot thereof.

SIMPLE RESOLUTIONS.

31. When resolutions are called for, the member offering a resolution shall rise in his place and say, "Mr. Speaker, I offer the following resolution." The Speaker shall then say, "The gentleman from — offers the following resolution. The resolution will be read." As soon as the Clerk shall have read the same the Speaker shall say, "What order will the House take upon the resolution?" If the second reading of the resolution is called for, the Speaker shall say, "Second reading of the resolution is called, if there is no objection the resolution will be read a second time." If objection be made to the second reading, it shall be in order for any member to move for second reading, which, if carried, the resolution shall be read again, and it will then be before the House for amendment, adoption or rejection. If the second reading is not moved the resolution shall lie over until the following day, when it will come up as business on the Speaker's table.

CONCURRENT RESOLUTIONS.

Concurrent resolutions shall take the same course as simple resolutions. Concurrent resolutions are defined as those which only require concurrence on the part of the Senate, and do not require the approval of the Governor.

MOTIONS.

32. No new motion or proposition on a subject different from that under consideration, shall be admitted under color of amendment, or as a substitute for the motion or proposition under debate.

33. When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority, or prevailing side, to move for a reconsideration thereof; provided it is made on the same day or the next sitting day, before the order of the day is taken up.

34. When the reading of a paper is called for, and the same is objected to by any member, the House shall determine whether said paper shall be read or not.

35. If a pending question be not disposed of, owing to an adjournment of the House, and be revived on the succeeding day, no mem-

ber who has spoken twice on the day preceding, shall be allowed to speak again without leave.

36. When motions are made for the reference of a subject to a select and a standing committee, the question for the reference to a standing committee shall be first put.

37. When a motion is made and seconded, it shall be stated by the Speaker; or, being in writing, it shall be handed to the Chair and read aloud by the Clerk before debated.

38. Every motion shall be reduced to writing if the Speaker or any member desire it.

39. After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in possession of the House, but may be withdrawn by the mover with the consent of the member who may have seconded the proposition.

40. When a question is under debate, no motion shall be received but—

1. To adjourn.
2. To lie on the table.
3. For the previous question.
4. To postpone to a day certain.
5. To commit.
6. To amend, or

7. To postpone indefinitely; which several motions have precedence in the order in which they are arranged, and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the bill or proposition. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection.

PREVIOUS QUESTION.

41. The previous question shall be put in this form: "Shall the main question now be put?" It shall only be admitted when seconded by ten members present, and, when carried, its effect shall be to put an end to all debate, and to bring the House to a direct vote:

1. Upon the pending amendment, and so on back to the first amendment offered.
2. Upon amendments reported by a committee, if any; and
3. Upon the main question.

A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon actual count by the Speaker, that no quorum is present.

On a motion for the previous question there shall be no debate

All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate. After a call for the previous question has been sustained by the House, the question shall be put and determined in order as above, without debate on either amendments or the main question, and no motion to adjourn shall be in order after the previous question is seconded until the final vote upon the main question shall be taken.

42. Any member may call for a division of a question when the same will admit of it.

43. A motion for the previous question shall not be laid on the table.

44. The previous question cannot be applied to the motions to postpone to a day certain, or indefinitely, or to commit, or that a motion be ordered to lie on the table. Nor can these motions be put upon the motion for the previous question.

BAR OF THE HOUSE.

45. In order to be entitled to vote, and to be within the bar of the House, a member must be upon the floor of the hall, and within the walls enclosing the same, and not outside any of the doors leading out of the hall, and he must vote from his seat.

46. No person shall be admitted within the bar but members of the Senate, officers of the General or State Government, and heads of departments.

47. THE SERGEANT-AT-ARMS.—It shall be his duty to attend the House during its sitting, to have charge of the chamber of the House of Representatives subordinate to the Speaker, and the committee rooms and offices belonging thereto, to keep the same in order, and to execute the commands of the House from time to time, together with all such process issued by authority thereof, as shall be directed to him by the Speaker.

48. Any fifteen members (including the Speaker, if there be one,) shall be authorized to compel the attendance of absent members; but this rule shall not be construed as repealing or conflicting with the provisions of Rule No. 41.

49. Upon calls of the House, and in taking the yeas and nays on any question, the names of the members shall be called alphabetically.

50. All questions relating to the priority of business shall be decided without debate.

51. A motion to adjourn, except as hereinbefore provided in Rule 41, and a motion to fix the day to which the House shall adjourn,

shall always be in order. These motions, and the motion to lie on the table, shall be decided without debate.

52. No member shall absent himself from the service of the House, unless he have leave, or be unable from sickness to attend, and it shall require a two-thirds vote of the members present to excuse absentees.

53. It shall be in order for the Committee on Enrolled Bills to report at any time.

54. No committee shall sit during the time the House is in session, without special leave being first granted.

55. The rules for paying witnesses summoned to appear before the House, or either of its committees, shall be as follows: For each day a witness shall attend, the sum of two dollars; for each mile he shall travel in coming to or going from the place of examination, the sum of twelve and a half cents each way, but nothing shall be paid for traveling home, when the witness was at the place of trial when summoned. And the certificate of the chairman of the committee before which a witness is summoned shall be sufficient authority for the same to be paid.

56. The Chief or Assistant Clerk shall rise and remain standing whilst reading any documents to the House.

57. The Assistant Clerk of the House shall, in the event of the absence, resignation or death of the Chief Clerk, take charge of and attend to all the duties of the office until his successor shall be elected.

58. On any question of order or parliamentary practice, where these rules are silent or inexplicit. Jefferson's Manual or Wilson's Digest of Parliamentary Law shall be considered as authority.

59. No extra compensation shall be allowed to any clerk or other officer of the House.

60. All unfinished business of the session of each Legislature shall be considered first in order at the second session of the same Legislature.

61. No member shall absent himself from the sittings of the House without leave, unless in case of sickness, and every member so absenting himself without leave, shall, for each day of absence, forfeit the pay allowed him by law. The provisions of Rule No. 52 shall apply to absentees in all cases, and no member shall be excused upon his own motion.

COMMITTEE OF THE WHOLE.

62. In forming a committee of the whole House, the Speaker shall leave his chair, and a chairman to preside in committee shall be appointed by the Speaker.

63. Upon bills committed to a committee of the whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be effaced or interlined; but all amendments, noting the page or line, shall be duly entered by the Clerk on a separate paper, as the same shall be agreed to by a committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses, before a question to engross be taken.

64. All amendments made to an original motion in Committee of the Whole shall be incorporated with the motion, and so reported.

65. In event that the Committee of the Whole, at any sitting, shall, for want of time, fail to complete the amendments proposed on any bill or resolution under consideration, or desire to postpone the consideration thereof, it may, on motion made at any time in the committee, rise, report progress, and have leave to sit again, generally, or at a day certain.

66. All amendments made to a report committed to a committee of the whole House, shall be noted and reported, as in the case of bills.

67. No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered.

68. No sum or quantum of tax or duty, voted by a committee of the whole House, shall be increased in the House until the motion or proposition for such increase shall first be discussed and voted in a committee of the whole House, and so in respect to the time of its continuance.

69. All proceedings touching appropriation of money, shall be discussed in committee of the whole House, and no appropriation of money shall be made, except by bill.

70. The rules of proceeding in the House shall be observed in committee so far as the same be applicable.

71. No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion thereof. Nor shall any rule be suspended or changed, except by a vote of two-thirds of the members present after such notice. Nor shall the order of business, as established by the Rules of the House, be postponed or changed, except by a vote of at least two-thirds of the members present.

72. While bills are on their passage between the two houses, they shall be under the signature of the Secretary or Clerk of each house, respectively.

73. The proceedings of the House, when not acting in Committee of the Whole, shall be entered on the journal as concisely as possi-

ble, care being taken to detail a true and accurate account of the proceedings.

74. Every vote of the House shall be entered on the journal with a concise statement of the question, and a brief statement of the contents of each petition, memorial or paper presented to the House, shall also be inserted on the journal.

75. The names of absentees shall appear on the journals.

76. Reporters shall be assigned appropriate and convenient seats in the House by direction of the Speaker.

77. There shall be no smoking, eating or cracking nuts allowed in this House during its sitting.

STANDING COMMITTEES.

78. All standing committees shall be appointed by the Speaker, who shall designate the chairman of each committee. The standing committees shall be as follows, in their order.

1. Committee on Judiciary.
2. Committee on Internal Improvements.
3. Committee on State Affairs.
4. Committee on Finance.
5. Committee on Education.
6. Committee on Commerce and Manufactures.
7. Committee on Immigration.
8. Committee on Public Lands and Land Office.
9. Committee on Federal Relations.
10. Committee on Agriculture and Stock Raising.
11. Committee on Counties and County Boundaries.
12. Committee on the Penitentiary.
13. Committee on Militia.
14. Committee on Indian Affairs.
15. Committee on Town and City Corporations.
16. Committee on Roads, Bridges and Ferries.
17. Committee on Claims and Accounts.
18. Committee on the Public Debt.
19. Committee to examine Comptroller's and Treasurer's Office
20. Committee on Privileges and Elections.
21. Committee on Printing and Contingent Expenses.
22. Committee on Public Buildings and Grounds.
23. Committee on Private Land Claims.
24. Committee on Engrossed Bills.
25. Committee on Enrolled Bills.

79. The Committee on Engrossed Bills, in addition to their duty as such, are also Committee on Style, and it shall be their duty to see that all bills passed by the House are correct in style, orthograph

punctuation, and in whatever else it is within the province of the committee to correct.

A committee from the Senate announced that that body was organized and prepared for the transaction of business; also asked that a committee be appointed by the House to act with a like committee of the Senate, to wait upon his Excellency, the Governor, and inform him of the organization of both houses.

The Speaker dispatched the Chief Clerk to the Senate to inform that body that the House had already appointed such committee.

Mr. Sinclair moved that a committee of five be appointed to regulate the pay of officers and employés of the House.

Carried.

The Speaker appointed Messrs. Sinclair, Sheriff, B. F. Williams, McLean and Simmons such committee.

Mr. Ellis offered the following resolution:

Resolved, That the use of this hall be granted to Dr. C. C. Buzby, on Monday and Tuesday nights, for the purpose of delivering phrenological lectures.

Resolution read first and second times, and on motion of Mr. Sinclair, it was laid on the table.

Messrs. Becton and Miller were excused from attendance.

On motion of Mr. Stockbridge the House, at 1:15 P. M., adjourned until 11 o'clock, A. M., Monday next.
